

**Minutes**  
**Air Pollution Control Board**  
Indiana Government Center South  
Conference Room A  
402 West Washington Street  
Indianapolis, Indiana

**August 4, 1999**  
1:00 p.m.

1. Mr. John Walker, Chairman, called the meeting to order at 1:12 p.m. He noted that a quorum was present.

**CALL TO ORDER**  
**QUORUM**

2. Chairman Walker introduced the board members.

**INTRODUCTION OF**  
**MEMBERS**

**Present:** John Walker, Chairman  
Thomas Anderson  
John Bacone, Proxy, Department of Natural Resources  
Howard Cundiff, Proxy, State Board of Health  
Marlowe Harmon  
Steve Rogers, Proxy, Lt. Governor  
Randy Staley  
Dr. James Miner

Staff members present were Tim Method, Deputy Commissioner; Janet McCabe, Assistant Commissioner; and Kathy Watson, Mike Brooks, and Ann Long.

3. Mr. Staley noted a correction was needed on the May 5, 1999 minutes for item #5, the vote for consideration for final adoption of 326 IAC 1-1-3, 326 IAC 1-1-3.5, 326 IAC 1-2-20.5, 326 IAC 1-2-52, 326 IAC 1-3-4. The vote taken was not unanimous, the record should state one nay or abstention vote.

**CORRECTION OF**  
**THE MINUTES**

Mr. Staley moved to adopt the minutes as amended and the motion passed unanimously.

4. Mr. Method talked about the Environmental Quality Service Council subcommittees that had their first meetings last week. Janet McCabe is a member of the Air Emission Trading committee. There will be a meeting on August 24, 1999, at 1:00 p.m. The second subcommittee meeting will involve styrene legislation mandating the agency to develop policy for permits. This rulemaking has begun and

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there should be a rule by the end of the year 2000. More discussion will follow on this topic. The third meeting is to examine whether ozone should be addressed as a statewide issue as opposed to regionally as is currently being done. The fourth group will examine administrative issues such as processing permits. A progress report on each of the subgroups will be given to the board.

Mr. Method discussed the status of the nitrogen oxides rule and the pending court cases. Discussions are currently being held between EPA and the eastern states. They are trying to find options for states to resolve the outstanding issues. No resolution is on the table.

Ms. McCabe introduced Kathy Watson, Chief of the Air Programs Branch, who will be over the sections including rules development and outreach, technical support and modeling, emission statements, inventory development, and program planning and policy. She is a lawyer who formerly worked at IDEM as Director of the Office of Enforcement.

Ms. McCabe noted for the record that a court reporter was not present at this meeting, but that staff members would record minutes of the meeting. She also mentioned that the next board meeting would be September 1, 1999, and will be held in Goshen at 7:00 p.m. There will be a tour of a styrene facility and an urban airshed toxics monitoring site.

An update to the styrene nonrule policy document and rule was given. The nonrule policy document is on a faster track than the rule. The staff will be working with business and citizens located in the South Bend/Elkhart region to get input to give to the board at the September 1, 1999 board meeting. The staff has discovered there are a greater number of affected facilities than previously thought. Policies need to be developed that work with the affected industry so their permit will not be out of compliance with the rule as promulgated and effective.

Ms. McCabe explained to the board that one of the rules that they final adopted at a previous board meeting has not been submitted for promulgation. This was the rulemaking to incorporate the new federal air quality standards. She explained the promulgation process to the board. After final adoption by the board, the department prepares a packet to be submitted to the attorney general, governor, and the secretary of state. Each office has a certain amount of time in which to review and approve the rule. The rule expires one year after printing in the Indiana Register as a proposed rule if not signed by the governor. This rule printed as proposed in the Indiana Register on 4/1/99 so we have until April 2000 to get it signed by the governor. With the uncertainty of the legal status due to the federal court action, the department has chosen to delay the promulgation process. Chairman Walker has mailed several letters explaining the delay in moving with the promulgation process.

Mr. Anderson asked about the status of the court's decision. Ms. McCabe said that a three-judge panel from the Federal Court of Appeals, D.C. Circuit, remanded the rule to EPA for further explanation on how they determined the standards. The court did not cancel the rule, however. EPA has appealed this decision to a fuller bench of judges. No schedule has been released as to when the court will hear this appeal; there is no schedule on when briefs may be presented to the court.

Chairman Walker introduced Erika Cheney, IDEM Legislative Director, to explain some of the 143 bills passed in the most recent legislative session. Two pieces of legislation that directly affect the board concern the styrene rulemaking under House Enrolled Act 1919 and the requirement to print the fiscal impact analysis in the Indiana Register when a rulemaking will cost an affected industry \$500,000 or more to comply (SB 241). She also noted as part of this legislation that nonrule policy documents must now be presented to the board for their review prior to becoming effective.

Chairman Walker introduced the rulemaking actions on the agenda and proceeded with the general hearing procedures.

Ms. McCabe reiterated that a court reporter was not present, but staff members were keeping notes from which minutes would be written.

5. Chairman Walker introduced Exhibit 1, rule 326 IAC 17.1, public records, confidential information, confidential agreements, as preliminary adopted and Exhibit 1A, the rule as preliminary adopted and proposed for final adoption with suggested changes, into the record of the hearing.

**CONSIDERATION OF  
FINAL ADOPTION OF  
NEW RULE 326 IAC  
17.1, Public Records,  
Confidential  
Information,  
Confidential Agreements**

Ms. Ann Long from the Office of Legal Counsel commented on the rule. She spoke about the purpose of the rule as a procedure for persons to claim confidentiality and for the department to determine what is confidential when submitted to the department. The rule describes how confidential material is protected from public access. There was an internal workgroup comprised of members from each of the rulemaking, permits, compliance, and inspection staff from the water, air and land offices to create this procedure. The rule is also a product of many outside comments received during the three comment periods and public hearings. The agency made its best effort to balance the regulated community's requirements to protect trade secrets with the legislative mandate that all public records should be accessible. Files will be accessible by the public unless specifically exempted as confidential. Only specific program requirements among the three offices such as Clean Air Act requirements are different between the rules before the three boards.

The changes to the rule clarify procedures on how information is claimed and treated as confidential, claimants' rights, and the links between the state's Public Records Act and IDEM's public record statutes.

Ms. McCabe clarified that there are specific amendments to the proposed rule that are shown as underlined in the copy in the board packet. The department recommended adopting the changes before final adoption of the rule.

Mr. Cundiff moved to adopt the amendments to new rule 326 IAC 17.1. Mr. Staley seconded. The motion passed unanimously.

Dr. Miner moved to final adopt new rule 326 IAC 17.1 as preliminary adopted with amended changes. Mr. Rogers seconded. The rule passed unanimously.

6. Chairman Walker entered into the record Exhibit 2, the draft rule 326 IAC 20-22, emission standards for hazardous air pollutants for flexible polyurethane foam production.

Mike Brooks, Chief of the Program Planning and Policy section, commented on the rule. This rulemaking incorporates by reference Federal Register citations to establish legal authority to implement and incorporate this program's requirements in Title V permits. This rule concerns the manufacturing of polyurethane foam and does not include glueing or fabricating foam. There are eight facilities in Indiana representing six companies; they are located in North Central Indiana in the South Bend/Elkhart area. The benefits of this rulemaking include reducing the emissions of methylene chloride, especially in high emission areas. Industry must comply three years after the date of the Federal Register or by October 7, 2001. The department will encourage compliance before that date with outreach efforts from the Office of Pollution Prevention and Technical Assistance.

**CONSIDERATION OF  
PRELIMINARY  
ADOPTION OF NEW  
RULE 326 IAC 20-22,  
Emission Standards for  
Hazardous Air Pollutants  
for Flexible  
Polyurethane Foam  
Production**

Mr. Brooks noted there were two sections of the rule, the applicability section and the reference to the Federal Register, that are not yet incorporated into 40 CFR 63. The department recommends the board consider this rule for preliminary adoption.

Mr. Harmon moved to preliminary adopt new rule 326 IAC 20-22. Dr. Miner seconded. The motion passed unanimously.

7. Chairman Walker entered into the record Exhibit 3, the draft rule, 326 IAC 6-1-12, particulate emission limitations for Rolls-Royce Allison in Marion County.

Ms. McCabe noted there was a small correction to the copy of the rule sent to the board; subsection (d)(4), should read "boilers 3, 4, and 7 through 10" as in subdivision (2).

Ms. McCabe explained that Rolls-Royce Allison requested to use landfill gas as an alternate fuel in two of the boilers listed in Article 6. The fact sheet for this rule noted that the NO<sub>x</sub> emissions reduction would be 22 tons and should have been 12.6 tons per year. The rule now lists the fuels that Rolls-Royce Allison can burn. They would like to add landfill gas or methane to that list. There will be no emission limit increases. The department looked at the air quality impact.

**CONSIDERATION OF  
PRELIMINARY  
ADOPTION OF  
AMENDMENTS TO  
RULE 326 IAC 6-1-12,  
Particulate Emission  
Limitations for Rolls-  
Royce Allison in Marion  
County**

Mr. Barry Chapman, Manager, Power and Utilities for Rolls-Royce Allison, gave comment. Mr. Chapman introduced Patricia Ellis, Greg Dunn, and Kurt Guter also representing Rolls-Royce Allison. Mr. Chapman summarized the project to date. The systems should be ready to burn landfill gas on September 1. He projects a 50-year availability of methane from the landfill process. This will save Rolls-Royce Allison 5% in energy costs. He urged the board to support this amendment.

Mr. Kurt Guter, Manager, Granger Energy in Lansing, Michigan, gave comment. This is Granger's ninth landfill gas project in the US to date, saving 600 million cubic feet of gas per year, a substantial environmental benefit.

Mr. Anderson asked if the landfill gas is being flared now. Mr. Guter replied that it was being flared at the landfill location.

Mr. Bacone moved to preliminary adopt the rule 326 IAC 6-1-12. Mr. Cundiff seconded. The motion passed unanimously.

8. The next meeting is scheduled for Wednesday, September 1, 1999, at 7:00 p.m., in the Elkhart County Public Services Building, Rooms A&B, 4230 Elkhart Road, Goshen, Indiana.

**NEXT MEETING**

9. Chairman Walker adjourned the meeting at 2:08 p.m.

**ADJOURNMENT**

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John Walker, Chairman

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Thomas Rarick, Technical Secretary